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Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact: \_\_\_\_\_, ID No. \_\_\_\_\_

Refer Reply To:  
CC:INTL:B06  
PLR-114175-15  
Date:  
October 20, 2015

In re:

Taxpayer =  
Shareholders A and B =  
Shareholders C and D =  
Law Firm =  
Accounting Firm =  
Business =  
State =  
Date 1 =  
Date 2 =  
Date 3 =

This replies to your representative's letter dated April 21, 2015, by which you request on behalf of Taxpayer an extension of time under Treas. Reg. § 301.9100-3(a) to file a Form 4876-A ("Election to be Treated as an Interest Charge DISC"), effective as of Date 1, for Taxpayer's first taxable year.

The rulings contained in this letter are based upon information and representations submitted by your representative and Taxpayer, and accompanied by a penalty of perjury statement executed by the appropriate party. This office has not verified any of the material submitted in support of the request for rulings, and verification of the information, representations, or other data may be required as part of a later examination.

**FACTS**

Taxpayer is a Delaware corporation wholly owned by Shareholders A, B, C, and D (collectively, "Shareholders"), who together own and operate Business in State. Because a significant portion of Business' production is exported, Shareholders A and B consulted Law Firm as to the potential benefits of forming an interest-charge domestic international sales corporation ("IC-DISC" or "DISC"). Shareholders A and B engaged Law Firm to incorporate Taxpayer and provide related services, and relied on Accounting Firm, which provides accounting services for Shareholders' business operation, to provide accounting services for Taxpayer as well.

Taxpayer was formed on Date 1 and was intended to be treated as an IC-DISC from its inception, entering into a commission agreement with Shareholders on the same date. Taxpayer additionally filed a Form SS-4 ("Application for Employer Identification Number") indicating its intent to file Form 1120-IC-DISC ("Interest Charge Domestic International Sales Corporation Return"). Taxpayer relied on Accounting Firm to prepare and file Form 4876-A on its behalf, and Law Firm informed Accounting Firm of the deadline, Date 2, by which that form should have been filed.

Due to an apparent misunderstanding, Accounting Firm failed to prepare and file the Form 4876-A for Taxpayer by the deadline. On Date 3, Accounting Firm realized that it had not done so and promptly informed Law Firm, which prepared and submitted this request for relief shortly thereafter.

**LAW AND ANALYSIS**

Section 992(b)(1)(A) of the Internal Revenue Code provides that an election by a corporation to be treated as a DISC shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

Section 992(b)(1)(B) provides that such election shall be made in such manner as the Secretary shall prescribe and shall be valid only if all persons who are shareholders in such corporation on the first day of the first taxable year for which such election is effective consent to such election.

Temp. Treas. Reg. § 1.921-1T(b)(1) provides, in part, that a corporation electing IC-DISC status must file Form 4876-A and that a corporation electing to be treated as an IC-DISC for its first taxable year shall make its election within 90 days after the beginning of the year.

Treas. Reg. § 301.9100-1(c) provides, in part, that the Commissioner, in exercising the Commissioner's discretion, may grant a reasonable extension of time under the rules set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make a regulatory election under all subtitles of the Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) provides that a regulatory election is an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. For this purpose, an election includes an application for relief in respect of tax.

Treas. Reg. § 301.9100-3(a) provides that requests for extension of time for regulatory elections that do not meet the requirements of Treas. Reg. § 301.9100-2 (automatic extensions) must be made under the rules of Treas. Reg. § 301.9100-3. Requests for relief subject to Treas. Reg. § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the Government.

Based on the facts and representations submitted with your ruling request, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file Form 4876-A. Such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer's first taxable year.

The granting of an extension in this ruling letter is not a determination that Taxpayer is in fact eligible to make the election or to claim IC-DISC status or benefits. See Treas. Reg. § 301.9100-1(a). Taxpayer should attach a copy of this ruling letter to its Federal income tax return for the taxable years to which this letter applies.

This ruling is directed only to the taxpayer requesting it, and section 6110(k)(3) provides that it may not be used or cited as precedent. Except as expressly provided, this letter does not express or imply any opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

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Christopher J. Bello  
Chief, Branch 6  
Office of Associate Chief Counsel (International)

Enclosures (2)  
Copy of this letter  
Copy for § 6110 purposes

cc: